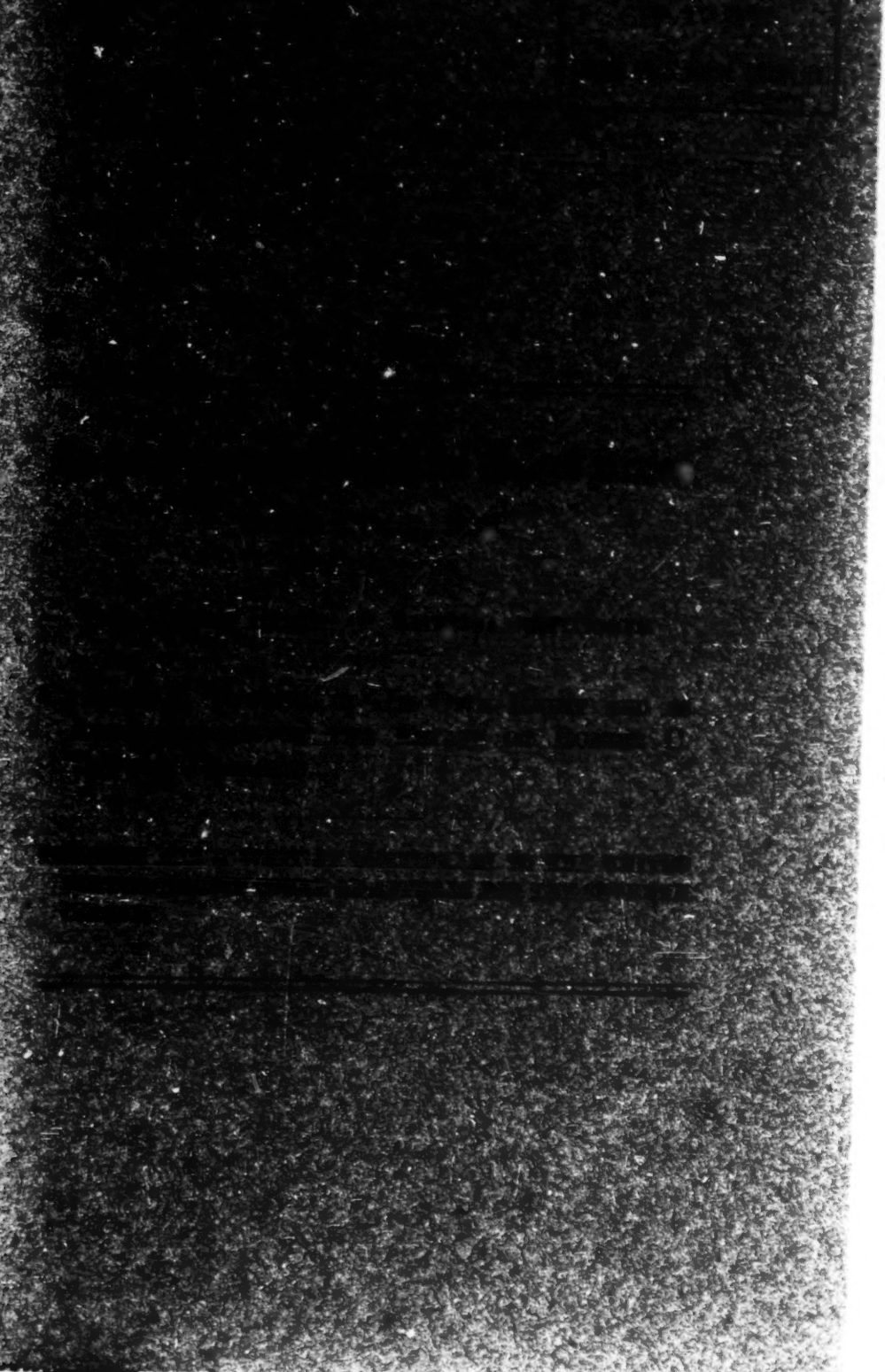

INDEX

CITATIONS

In the Supreme Court of the United States

OCTOBER TERM, 1938

No. 360

THE UNITED STATES OF AMERICA, PETITIONER

v.

CHARLES F. TOWERY, IN HIS OWN RIGHT AND AS ADMINISTRATOR OF THE ESTATE OF ROBERT C. TOWERY, DECEASED

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

The Solicitor General, on behalf of the United States, prays that a writ of certiorari be issued to review the judgment of the United States Circuit Court of Appeals for the Seventh Circuit entered in the above entitled case on June 18, 1938.

OPINIONS BELOW

The District Court of the United States for the Northern District of Illinois rendered no opinion. The opinion of the Circuit Court of Appeals (R. 11–16) is reported in 97 F. (2d) 906.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered June 18, 1938 (R. 16). The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

1. Whether the six-year limitation provision in Section 19 of the World War Veterans' Act, 1924, as amended, began to run against the respondent's suit to recover installments of total permanent disability benefits under a contract of war risk term insurance on the date as of which each installment of such benefits accrued, or as of a date not later than the last day the insurance was in force by premium payments.

2. Whether the same limitation provision began to run against the suit of the respondent as the beneficiary of such a policy upon the date of the insured's death at a time when the policy was not in force by premium payments, or as of a date not later than the last day the insurance was in force by premium payments.

STATUTES INVOLVED

Section 19 of the World War Veterans' Act, 1924, as amended July 3, 1930, c. 849, 46 Stat. 992 (U. S. C., Title 38, Sec. 445), provides in part:

> No suit on yearly renewable term insurance shall be allowed under this section

unless the same shall have been brought within six years after the right accrued for which the claim is made or within one year after the date of approval of this amendatory Act, whichever is the later date, * * * : *Provided,* That for the purposes of this section it shall be deemed that the right accrued on the happening of the contingency on which the claim is founded: *Provided further,* That this limitation is suspended for the period elapsing between the filing in the bureau of the claim sued upon and the denial of said claim by the director. * * *

* * * * *

The Act of June 29, 1936, c. 867, Sec. 404, 49 Stat. 2034 (U. S. C., Title 38, Sec. 445d), provides in part:

That in addition to the suspension of the limitation for the period elapsing between the filing in the Veterans' Administration of the claim under a contract of insurance and the denial thereof by the Administrator of Veterans' Affairs or someone acting in his name, the claimant shall have ninety days from the date of the mailing of notice of such denial within which to file suit. This Act is made effective as of July 3, 1930, and shall apply to all suits now pending against the United States under the provisions of section 19, World War Veterans' Act, 1924, as amended; * * * *Provided,* That on and after the date of enactment of this Act, notice of denial of the claim under a con-

tract of insurance by the Administrator of Veterans' Affairs or someone acting in his name shall be by registered mail directed to the claimant's last address of record: *Provided further,* That the term "denial of the claim" means the denial of the claim after consideration of its merits.

Other statutes mentioned in this petition, together with Congressional committee reports and bulletins of the Treasury Department, appear in the Appendix, *infra,* pp. 23–28.

STATEMENT

Charles F. Towery, the respondent, brought this suit in the District Court of the United States for the Northern District of Illinois, in his own right and as administrator of the estate of Robert C. Towery, upon claims under two war risk term insurance policies alleged to have been issued to the plaintiff's decedent while in the military service of the United States. Respondent sought to recover total permanent disability benefits under the policies in his capacity as administrator and death benefits as the beneficiary designated in the policies (R. 1–4).

It was alleged in the complaint that the premiums on the policies were deducted from the insured's pay during his military service, from which he was discharged June 18, 1919; that he became totally and permanently disabled, while the poli-

cies were in force,[1] on June 18, 1919; that he died April 22, 1927; that on May 2, 1927, respondent was appointed administrator of his estate; that on February 11, 1932, respondent made claim for disability and death benefits under the policies; and that his claim was denied in the Veterans' Administration on August 8, 1935 (R. 1–4). This suit was brought on June 29, 1935 (R. 1).

The Government moved to dismiss the suit on the ground, in effect, that it was barred by the six-year limitation provision contained in Section 19 of the World War Veterans' Act, 1924, as amended (*supra*, pp. 2–3). After hearing on the motion, at which no evidence was introduced (R. 9), the motion was granted and judgment was entered for the Government (R. 5–6, 9).

Respondent appealed, assigning error to the ruling on the motion (R. 7).

The Circuit Court of Appeals for the Seventh Circuit reversed, holding (R. 11–16):

(1) That the suit was not barred by the statute of limitations as to respondent's claim as administrator to any installments of total permanent disability benefits which had accrued within six years prior to the filing of the claim for such benefits in the Veterans' Administration; and

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[1] Under the regulations of the Bureau of War Risk Insurance (T. D. 45, *infra*, Appendix, pp. 26–27) the first premium subsequent to the insured's discharge from military service became due July 1, 1919, and the grace period for the payment of that premium expired July 31, 1919.

(2) That the suit was in time as to all benefits claimed by respondent as beneficiary of the policies.

The court below, in its opinion, stated that the statute itself did not define the "contingency" on the happening of which, under its terms, "the right accrued for which the claim is made" and the statute began to run, but said that the term "contingency" must be construed in the light of the policy provisions. Construing the term in this light, the court was of the view that, as to the claim for total permanent disability benefits, the statute did not begin to run against suit as to any particular installment of such benefits until the installment accrued and that, as to respondent's claim as beneficiary, it did not begin to run until the death of the insured.

While conceding that in cases like the one at bar it would be "an essential fact" of a beneficiary's claim "that total and permanent disability occurred at a time prior to the discontinuance of the payment of premiums" since no "valid contractual obligation" would otherwise arise in his favor on the death of the insured, the court below based its decision that the death of the latter was "the contingency on which the claim is founded" and which started the statute running upon the fact that there were "no enforceable legal claims for the payment of benefit installments" until then and upon the court's interpretation of the policy as giving the beneficiary, upon the death of the in-

sured, the right to the payment of a determinable amount of benefits.[2]

It is stated in the opinion, in substance, that if, upon the maturity of the policy by total permanent disability, the amount of the *disability* benefits which would be payable to the insured had also been determinable, "the 'happening of the contingency on which the claim is founded' would be the inception of the condition of total and permanent disability," even though the amount was payable in installments; but that in the case of such benefits, as distinguished from those to which the beneficiary would be entitled, "the right of the insured to receive any particular payment of a monthly installment cannot accrue legally until the payable date arrives during continuance of disability";[3] and that it necessarily follows that the statute could not run as to any particular installment of such benefits before the payable date of such installment, "since the arrival of the pay-

[2] Actually, the maximum amount to which the beneficiary may ultimately be entitled is not determinable upon the death of the insured. Section 303, World War Veterans' Act, 1924, as amended by the Act of March 4, 1925, c. 553, 43 Stat. 1302, 1310 (U. S. C., Title 38, Sec. 514), provides that the value of any installments becoming payable after the death of the beneficiary shall be paid to the estate of the insured.

[3] No basis exists for a distinction between the beneficiary and the insured or his personal representative as to the determinability of the amounts payable. See Footnote 2.

able date during continuance of disability consummates the contingency upon which the claim is founded."

SPECIFICATION OF ERRORS TO BE URGED

The Circuit Court of Appeals erred:

(1) In holding that, although the right of an insured or his personal representative to installments of war risk term insurance benefits is dependent upon the existence of total permanent disability of the insured during the life of the policies, the statute of limitations, nevertheless, did not begin to run against suit to recover any installment which accrued after the life of the policies until such installment became payable.

(2) In adopting an interpretation of the statute of limitations which leaves no time limitation whatever upon suits by veterans insured under war risk term insurance policies to recover total permanent disability benefits under such policies, and in this connection

(a) In holding that the number of monthly installments payable as benefits under such policies, by reason of total permanent disability, is limited to two hundred forty, and

(b) In failing to hold that the monthly installments of such benefits are payable throughout the duration of total permanent disability, regardless of how long it might continue.

(3) In failing to hold that the statute began to run as to each of the respondent's claims upon the

date of the existence within the life of the contract of the total permanent disability of the insured which establishes the obligation to pay benefits in accordance with the terms of the contract.

(4) In failing to hold, therefore, that the latest date on which the six-year limitation could begin to run as to either of the respondent's claims to any benefits was July 31, 1919, the last day on which insurance protection existed.

(5) In disregarding the termination of the suspension of the limitation upon the effective date of the denial of respondent's claim for total permanent disability benefits in the Veterans' Administration, in its computation of the number of installments of benefits payable prior to the filing of the claim.

(6) In reversing the judgment of the District Court.

REASONS FOR GRANTING THE WRIT

(1) The decision of the Circuit Court of Appeals is squarely in conflict with the decision of the Circuit Court of Appeals for the Fifth Circuit in *United States* v. *Tarrer,* 77 F. (2d) 423, 425, certiorari denied, 296 U. S. 574, where it was held, upon facts substantially similar to those in the instant case, that the "contingency" on which the claim of a beneficiary under a war risk term insurance contract was founded, which started the running of the statute of limitations against suit on the claim, was "not the death of the insured in

1930, but his total and permanent disability at the time the policy lapsed in 1919"; and that no other limitation applied to the beneficiary's claim than applied to that of the insured.

(2) The decision of the Circuit Court of Appeals in so far as it involves the holding that the statute of limitations does not begin to run against suit to recover any installment of total permanent disability benefits under a contract of war risk term insurance until the installment accrues, is contrary to the decision of this Court in *Tyson* v. *United States,* 297 U. S. 121, to the decisions of the Circuit Court of Appeals for the Seventh Circuit itself in *United States* v. *Lund,* 76 F. (2d) 723, rehearing denied April 4, 1935; *United States* v. *McQuilkin,* 88 F. (2d) 476, certiorari denied, 301 U. S. 683; and *United States* v. *Craig,* 83 F. (2d) 361, rehearing denied May 12, 1936; and to the decisions of other Circuit Courts of Appeals and District Courts generally. See, for example, *United States* v. *Tarrer, supra; Stallman* v. *United States,* 67 F. (2d) 675 (C. C. A. 8th); *Roberts* v. *United States,* 66 F. (2d) 273 (C. C. A. 10th); *Wilson* v. *United States,* 70 F. (2d) 176, 179 (C. C. A. 10th); *Carson* v. *United States,* 37 F. (2d) 946 (D. Idaho); and *Baker* v. *United States,* 15 Fed. Supp. 982 (D. Idaho).

(3) That the questions involved are of public importance cannot be doubted in view of the fact that they relate to rights to sue the Government

upon several million war risk term insurance policies involving several billion dollars.[4]

Under the court's construction of the statute, there would be no time limitation whatever upon suits to recover total permanent disability benefits by veterans to whom war risk term insurance policies were issued, so that suit might be brought at any time after a denial of a claim for insurance benefits in the Veterans Administration on any of the several million policies which were originally issued, so long as the veteran to whom the policy was issued remains alive, and new suits may be brought by veterans in all cases in which prior suits have been dismissed as barred by the statute of limitations.

That the construction adopted by the Circuit Court of Appeals would leave no time limitation whatever upon suits by veterans to recover total permanent disability benefits is apparent from the facts that no limit is placed by the policies upon the number of installments payable during the total permanent disability of the insured, and that consequently if, as held by the court below, the statute of limitations does not begin to run against

[4] Over four and one-half million of such policies were issued during the War, amounting to about forty billion dollars. *Lynch* v. *United States*, 292 U. S. 571, 576, footnote 2. According to the Annual Report of the Administrator of Veterans' Affairs for the year 1937, p. 65 (which is the latest report available), less than 194,447 of these policies had at that time been eliminated, as possible bases for suit, by awards of benefits upon them.

suit on any installment of such benefits until it accrues, any veteran having a claim to such benefits may, in the event of denial of his claim, bring suit at any time, asserting that his policy had matured by total permanent disability prior to the date when it would otherwise have expired for nonpayment of premiums.

In this connection, the statement in the opinion of the court below (R. 13) that the obligation of the Government to pay total permanent disability benefits under a war risk term insurance contract is limited to the payment of two hundred forty installments, is contrary to the terms of the policy,[5] when considered in the light of Section 402 of the War Risk Insurance Act, as amended by the Act of October 6, 1917 (Appendix, *infra*, pp. 23–24), under which the policy was issued. That section provides that payment shall be made "during total and permanent disability", and it is quite apparent that there was no intention to limit the number of installments thus payable, in view of the provision in the section that, in making all calculations in connection with this insurance, "no deduction shall be made for continuous installments during the life of the insured *in case his total and permanent disability continues more than two hundred and forty months.*" [Italics ours.] Moreover, the Act was so interpreted, with the full approval of the Bureau of

[5] See Bulletin No. 1, Treasury Department, October 15, 1917, Appendix, *infra*, pp. 24–25.

War Risk Insurance, by Judge Julian W. Mack, in explaining its provisions at a conference of officers and enlisted men of the Army and Navy, held in Washington in October 1917, immediately after the publication of the terms of the contract. (See Bulletin No. 3, Treasury Department, October 16, 1917, Appendix, *infra,* pp. 25–26).

While it is true that, under the interpretation of the statute adopted by the court below, in a case like the one at bar, where the claim for total permanent disability benefits has been filed subsequent to July 3, 1931, the recovery by suit is limited to installments which have accrued within six years prior to the filing of the claim, it seems unlikely that the Veterans' Administration would reject a claim filed, subsequent to the entry of a judgment, to recover all benefits which accrued prior to those embraced in the judgment. In *United States* v. *Worley,* 281 U. S. 339, it was held that the judgment in a war risk insurance case should not include installments maturing after the suit was brought. It is said in the opinion, however (p. 341):

> Undoubtedly, when one's right to recover is established by judgment, the Veterans' Bureau will pay him installments maturing in his favor after the commencement of the action.

Pursuant to the view thus expressed by this Court, it has been the consistent administrative

practice to pay installments, not embraced in a judgment, which have accrued subsequent to the bringing of suit, so long as the plaintiff remains totally and permanently disabled. The plaintiff's right to recover installments maturing *prior* to the commencement of the action is as well established by judgment as his right to recover those maturing thereafter. The limitation on the number of installments recoverable by suit would, therefore, seem inconsequential.

The extent of the departure from a policy of affording protection against stale claims involved in the interpretation of the statute of limitations by the Circuit Court of Appeals is further shown by the fact that no premiums have been paid since the War on more than three million policies,* and suits to recover benefits under them would involve as their principal issues the question of whether the insured persons were totally and permanently disabled prior to the date, many years in the past, when the policies would otherwise have expired for nonpayment of premiums.

(4) The construction of the statute adopted by the Circuit Court of Appeals is at variance with the purpose of the statute to protect the Government against the assertion of stale claims. The court below states, in substance, that Congress had no intention by enacting the provisions in question of barring suits on stale but meritorious claims (R. 15);

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* See *Lynch* v. *United States*, 292 U. S. 571, 576, footnote 2.

that such an intention would have been inconsistent with the liberal purpose which runs throughout all the statutes relating to the enforcement of claims for insurance benefits under war risk term policies. It is no doubt true that Congress was actuated by a liberal purpose, since at the same time that it provided a uniform six-year limitation to take the place of the statutes of limitations of the various states it allowed also one year from the date of the enactment within which suit might be brought on all claims, thus permitting many suits to be brought which would otherwise have been barred under the state statutes (*United States* v. *Sligh*, 24 F. (2d) 636 (C. C. A. 9th), and see Committee reports which accompanied the Act of May 29, 1928, containing the original limitation provisions, Appendix, *infra*, p. 28). However, there would seem no justification for imputing a purpose so liberal as to include the removal of all time limitations upon suits in the enormous class of potential claims by veterans for total permanent disability benefits.

Furthermore, when the original limitation provisions were enacted, Congress was presumably aware that, in the event of a suit on any one of the several million policies upon which no premiums have been paid since the War, the principal issue would be whether the policy matured by total permanent disability at least as early as 1919, and that, if an indefinite period were allowed for suit

thereafter, it would be difficult and in many cases impossible, to prepare and present a proper defense by reason of the loss of memory, death or removal of witnesses, or the loss of records. Approximately nine years had already passed, and it would seem at least doubtful that Congress intended to impair further the Government's ability to defeat unmeritorious claims by allowing a longer time for suit in such cases than one year after the date of the Act. In this connection the Circuit Court of Appeals is apparently in error in construing the six-year limitation for filing suit as intended to relieve against hardships resulting from the fixing of the arbitrary date of one year after the passage of the Act. It is submitted that the correct interpretation is just the reverse. The one-year provision was intended to relieve from the hardship which would have resulted if the six-year limitation were enacted alone, since it was then more than six years since any premiums had been paid on most of the war risk term insurance policies, and suits on all such policies would have been barred under the six-year clause, unless the one-year clause had been included.

(5) The construction of the provisions in question by the Circuit Court of Appeals, furthermore, is contrary to well-established rules of statutory interpretation. The "claim" referred to in the statute, embraced, of course, the right to one or more installments of total permanent disability

benefits. The claim is, however, founded primarily as to every installment upon the existence of the disability during the period of insurance protection which matures the policy. And, while the happening of this contingency coincides with the due date for the payment of the first installment, it was evidently intended to constitute the contingency on which the claim is founded, within the meaning of the statute, as to all installments.

If, as held in effect by the court below, the "right" referred to in the statute was the right to each installment, so as to create a succession of rights with differing periods of limitation for each, the addition of the words "the contingency on which the claim is founded," apparently designed to make the intention of Congress clearer, serves no such purpose and becomes surplusage at best. The contingency clause would be equally useless under the court's interpretation of the statute with reference to the right of the beneficiary.

The interpretation adopted by the court below is, therefore, contrary to the well-settled rule of statutory construction that effect should be given, if possible, to every part of the statute, and that none of the provisions should be treated as surplusage unless it is unavoidable. *Platt* v. *Union Pac. R. R. Co.*, 99 U. S. 48, 58; *D. Ginsberg & Sons, Inc.*, v. *Popkin*, 285 U. S. 204, 208. It is also opposed to the rule that statutory waivers of the Government's sovereign immunity from suit are to be

strictly construed in its favor. *United States* v. *Michel,* 282 U. S. 656, 660; *Kemp* v. *United States,* 77 F. (2d) 213 (C. C. A. 7th); *United States* v. *Valndza,* 81 F. (2d) 615, 617 (C. C. A. 6th); *United States* v. *Arditto,* 86 F. (2d) 787, 788 (C. C. A. 6th); *Fletcher* v. *United States,* 92 F. (2d) 713, 717 (Ct. Cus. & Pat. App.); *Coleman* v. *United States,* 18 F. Supp. 71, 72 (W. D. Tenn.).

Moreover, the interpretation of the court below is inconsistent with a provision of Section 19, World War Veterans' Act, as amended, not here specifically involved and also with the provisions of Section 404 of the Act of June 29, 1936 (*supra,* pp. 3–4). Section 19, as amended May 29, 1928 (Appendix, *infra,* pp. 27–28), and as amended July 3, 1930 (*supra,* pp. 2–3), gave one year from the date of enactment within which to sue. Under the court's interpretation this would have been largely unnecessary, at least as to any case in which total permanent disability was the sole basis of the claim, since the right to recover most of the installments sought by any claimant would have existed under the six-year provision. Section 404, enacted June 29, 1936, and made retroactively effective to July 3, 1930, allowed ninety days from the effective date of administrative denial within which to sue and permitted the reinstatement of those cases which had been dismissed (in their entirety) and which would have been timely had this amendment been in effect. Under the court's in-

terpretation suits for disability benefits, at least, would not have been barred prior to this amendment, except possibly in so far as certain installments were concerned. And even in those cases the only effect of the amendment would have been to make possible the recovery of three additional installments at most.

The correct construction of the statutory provisions in question, it is submitted, is to the effect that where, as here, the right of an insured or his personal representative, and that of the beneficiary, are both dependent upon establishing the existence of total permanent disability during the life of the contract, the statute of limitations began to run as to each claim no later than the date when such contract would have lapsed and all rights thereunder would have ceased unless such disability were established, i. e. in this case on July 31, 1919. While it is true that all time limitations on suit by a beneficiary are not taken away under the interpretation of the court below, it would be possible under that interpretation in some cases for the beneficiary to bring suit as long as twenty-six years after the alleged occurrence of the total permanent disability which would constitute the principal issue involved in the case.[7] Thus, as to such claims, the statute, although not wholly defeated, would nevertheless be seriously impaired in its purpose.

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[7] If the insured died just before the expiration of twenty years after the lapse of the policy, the beneficiary could, within six years thereafter, sue for the 240th installment.

Moreover, there is no apparent reason why the beneficiary should be given the privilege of bringing suit upon a claim based upon the total permanent disability of the insured, after the insured himself has lost the privilege of asserting his claim in court based upon the same contingency. The obligation of the Government is a single obligation to pay the value of 240 installments,[6] the method of payment and the persons to whom payments are to be made being dependent upon the facts of the individual case. Cf. *Boyett* v. *United States*, 86 F. (2d) 66, 68 (C. C. A. 5th). The beneficiary is merely a "volunteer." His rights are derived from the insured, since he owes them to the insured's gratuitous designation of him as beneficiary. The insured may change the beneficiary at any time. Moreover, even after the death of the insured, his rights under the policy may be taken from him by Congress and given to others. *White* v. *United States*, 270 U. S. 175.

(6) Even if it were to be assumed that the Circuit Court of Appeals is correct in its holding that the statute of limitations did not begin to run as to any installment until the installment accrued, it erred in holding that the bar of the statute was ineffective as to any installment which accrued within six years prior to the filing of the claim for benefits in the Veterans' Administration on Feb-

[6] Only in case of total permanent disability continuing for more than twenty years may this obligation be increased.

ruary 11, 1932. It is submitted that this holding is contrary to the provisions of Section 19 of the World War Veterans' Act, 1924, as amended, *supra*, pp. 2–3). This section provides a suspension of limitations only for the period "between the filing in the bureau of the claim sued upon and the denial of said claim." Thus the statute clearly contemplates a resumption of the running of limitations upon the effective date of the administrative denial of the claim.[9] The court, however, ignores this fact. It states (R. 14–15):

> On February 11, 1932, the running of the statute of limitations was suspended since on that date the administrator filed his claim for installments for total permanent disability benefits which had become due up to the date of the death of the insured. Consequently, the bar of the statute was not effective as to any installments payable within six years prior to February 11, 1932, and before the death of the insured; therefore the administrator had a valid enforcible claim for all monthly installments of disability benefits which accrued during the period from February 11, 1926 up to and including the date of death of the insured, April 22, 1927.

[9] Section 404 of the Act of June 29, 1936 (*supra*, pp. 3–4), which provides a minimum period of ninety days from the effective date of denial within which to sue, has no bearing in this connection, since the suit was brought subsequent to the expiration of this ninety-day period.

Since the claim was denied on August 8, 1935 (R. 3) and suit was not filed until June 29, 1936 (R. 1), there was a period of 326 days, subsequent to the termination of the suspension during which limitations again ran. Consequently, even under the court's interpretation of the statute, there was a period of nearly eleven months during which the statute was not suspended and during which there would have been lost any right to the recovery of approximately eleven of the monthly installments which the court states are recoverable.

CONCLUSION

For the reasons stated it is respectfully submitted that this petition for a writ of certiorari should be granted.

ROBERT H. JACKSON,
Solicitor General.

SEPTEMBER 1938.

APPENDIX

The first authority to grant war risk insurance is contained in the Act of October 6, 1917, c. 105, Sec. 2, 40 Stat. 398, 409–410, amending the War Risk Insurance Act by adding the following section, among others:

> SEC. 402. That the director, subject to the general direction of the Secretary of the Treasury, shall promptly determine upon and publish the full and exact terms and conditions of such contract of insurance. The insurance shall not be assignable, and shall not be subject to the claims of creditors of the insured or of the beneficiary. It shall be payable only to a spouse, child, grandchild, parent, brother or sister, and also during total and permanent disability to the injured person, or to any or all of them. The insurance shall be payable in two hundred and forty equal monthly installments. Provisions for maturity at certain ages, for continuous installments during the life of the insured or beneficiaries, or both, for cash, loan, paid-up and extended values, dividends from gains and savings, and such other provisions for the protection and advantage of and for alternative benefits to the insured and the beneficiaries as may be found to be reasonable and practicable, may be provided for in the contract of insurance, or from time to time by regulations. All calculations shall be based upon the American Experience Table of Mortality and interest at three and

one-half per centum per anum, except that no deduction shall be made for continuous installments during the life of the insured in case his total and permanent disability continues more than two hundred and forty months.

Bulletin No. 1 (Regulations and Procedure, U. S. Veterans' Bureau (1930), Part II, pp. 1233, 1235) was promulgated by the Director of the Bureau of War Risk Insurance, Treasury Department, on October 15, 1917, and provides, in part, as follows:

THE UNITED STATES OF AMERICA, TREASURY DEPARTMENT, BUREAU OF WAR RISK INSURANCE

Under the authority granted by Congress in an act * * * and subject in all respects to the provisions of such act, of any amendments thereto, and of all regulations thereunder, now in force or hereafter adopted, all of which, together with this policy, the application therefor, and the terms and conditions published under authority of the act, shall constitute the contract:

Hereby insures from and after the — day of —, 19—, John Doe, * * * conditioned upon the payment of premiums as herein provided, for the principal amount of $5,000, converted into monthly installments of $28.75 (the equivalent, when paid for 240 months, of the sum insured, on the basis of interest at the rate of 3½ per cent per annum), payable—

To the insured, if he/she, while this insurance is in force, shall become totally and permanently disabled, commencing with such

disability as established by the award of the director of the bureau and continuing during such disability; and

To the beneficiary or beneficiaries hereinafter designated, commencing upon the death of the insured, while the insurance is in force, and (except as otherwise provided) continuing for 240 months if no installments have been paid for total and permanent disability or if any such installments have been paid, then for a number of months sufficient to make 240 in all:

* * * * *

Unless other designation is made by the insured, such person or persons, within the permitted class of beneficiaries, as would under the laws of the place of residence of the insured be entitled to his personal property in case of intestacy shall be deemed designated as the beneficiary or beneficiaries to whom shall be paid any installments remaining unpaid upon the death, or disqualification under the provisions of the act, of any named beneficiary.

Bulletin No. 3 (Regulations and Procedure, U. S. Veterans' Bureau (1930), Part II, pp. 1241, 1258, 1259), was promulgated by the Director of the Bureau of War Risk Insurance, Treasury Department, on October 16, 1917, and provides, in part, as follows:

Explanation submitted by Hon. Julian W. Mack, of the provisions of the military and naval insurance act, presented at a conference of officers and enlisted men of the Army and Navy, held in Washington on October 16, 17, and 18, 1917. This explanation has

the full approval of the Bureau of War Risk Insurance.

WILLIAM C. DE LANOY, *Director.*

Approved:
W. G. McADOO,
Secretary of the Treasury.

SCOPE AND MEANING OF ACT OF OCTOBER 6, 1917, PROVIDING FOR FAMILY ALLOWANCES, ALLOTMENTS, COMPENSATION, AND INSURANCE FOR THE MILITARY AND NAVAL FORCES OF THE UNITED STATES.

Hon. JULIAN W. MACK.

Hon. Julian W. Mack. Mr. Chairman and gentlemen, * * *

* * * * *

Now, in its solicitude for the men and for the families, and acting—and properly acting—in a somewhat paternal manner, the Government has provided that you can not get this insurance paid out in a lump sum, and that your family can not get this insurance paid out in a lump sum. It is not only free from creditors, but it is going to be paid out only in monthly installments over a period of 20 years, which means 240 monthly installments. If, however, you become totally disabled and the total disability continues more than 20 years, the same monthly installments will be kept up for you as long as the disability continues.

Treasury Decision 45 (Regulations and Procedure, U. S. Veterans' Bureau (1930), Part I, p. 18), promulgated by the Director of the Bureau of War Risk Insurance, Treasury Department, on May 17, 1919, provided in part as follows:

1. When any person insured under the provisions of the war risk insurance act

leaves the active military or naval service for reasons not precluding the continuation of insurance, the monthly premium which, had he remained in the service, would have been payable on the last day of the calendar month in which he was discharged will be payable on the first day of the calendar month following the date of his discharge, and thereafter monthly premiums shall be payable on the first day of each calendar month. The premium payable on the first day of any calendar month may, however, be paid at any time during such month, which shall constitute a grace period for the payment of such premium. If the premium is not paid before the expiration of such grace period the insurance shall lapse and terminate.

Section 19 of the World War Veterans' Act, 1924, was amended by the Act of May 29, 1928, c. 875, 45 Stat. 964, by adding the following:

No suit shall be allowed under this section unless the same shall have been brought within six years after the right accrued for which the claim is made, or within one year from the date of the approval of this amendatory Act, whichever is the later date: *Provided,* That for the purposes of this section it shall be deemed that the right accrued on the happening of the contingency on which the claim is founded: *Provided further,* That this limitation is suspended for the period elapsing between the filing in the bureau of the claim sued upon and the denial of said claim by the director. * * * No State or other statute of limitations shall be applicable to suits filed under this section. This section shall apply to all suits now pending

against the United States under the provisions of this section.

In the House Committee Report (70th Cong., 1st Sess., H. Rep. 1274, p. 1) accompanying the bill which became the Act, it is said:

* * * * *

1. Section 1 of the bill amends section 19 of the act by establishing a uniform statute of limitations for suits on contracts of insurance. At the present time, under the conformity act, the statutes of limitations of the various States apply. The periods of limitations in these statutes vary from 3 to 20 years, the average being 6 years. The committee believes that the average statute of limitation, namely six years, should be applied to these suits, with an additional year from the date of passage of this amendatory act for all suits. * * *

The same statement is contained in the Senate Committee Report (70th Cong., 1st Sess., S. Rep. 1297, p. 1).

U. S. GOVERNMENT PRINTING OFFICE: 1938